

CHARLEY vs. THE UNITED STATES OF AMERICA, et al.
No. 1:22-CV-00033-JB/JFR

Timothy Boyd Charley
May 05, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO
Case No. 1:22-CV-00033 JB/JFR

THE ESTATE OF NENA CHARLEY,
By and Through Personal Representative,
TIMOTHY CHARLEY, TIMOTHY
CHARLEY, as Parent and Next Friend of
NILE CHARLEY, and TIMOTHY CHARLEY, Individually,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,
ROBIN RANELL SALES, R.N., JOELLE
CATHERIN CERO GO, R.N., AB
STAFFING SOLUTIONS, LLC, a Foreign
Corporation, NEXT MEDICAL STAFFING,
a Foreign Corporation, and JOHN or JANE
DOE Corporation,

Defendants.

VIDEOCONFERENCE DEPOSITION
OF TIMOTHY BOYD CHARLEY
May 5, 2023
10:00 a.m.
Albuquerque, New Mexico

PURSUANT TO THE NEW MEXICO RULES OF CIVIL PROCEDURE,
this Deposition was:

TAKEN BY: JOHN J. CHECKETT, ATTORNEY FOR
DEFENDANTS ROBIN RANELL SALES, R.N.,
AND NEXT MEDICAL STAFFING

REPORTED BY: REBECCA FELLA, RPR
NEW MEXICO CCR 534
WILLIAMS & ASSOCIATES, LLC
317 Commercial Street NE, Suite G-101
Albuquerque, New Mexico 87102

USA EXHIBIT A

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1 APPEARANCES 2 FOR THE PLAINTIFFS: 3 MELANIE BEN 4 LISA K. CURTIS 5 Curtis & Co. Law Firm 6 215 Central Avenue NW, Third Floor 7 Albuquerque, New Mexico 87102 8 (505) 243-2808 9 Melanie@curtislawfirm.org 10 Lisa@curtislawfirm.org 11 12 FOR DEFENDANT THE UNITED STATES OF AMERICA: 13 BRETT EATON 14 Office of the US Attorney 15 Post Office Box 607 16 Albuquerque, New Mexico 87103-0607 17 (505) 224-1507 18 Brett.Eaton@usdoj.gov 19 20 FOR DEFENDANTS ROBIN RANELL SALES, R.N., AND NEXT MEDICAL 21 STAFFING: 22 JOHN J. CHECKETT 23 The Checkett Law Firm, PLLC 24 6829 North 12th Street 25 Phoenix, Arizona 85014 26 (480) 272-9100 27 Jcheckett@checkett-law.com 28 29 FOR DEFENDANTS JOELLE CATHERIN CERO GO, R.N., AND AB 30 STAFFING SOLUTIONS: 31 32 DENISE M. CHANEZ 33 Saiz Chanez Sherrell & Kaemper, P.C. 34 5600 Wyoming Boulevard NE, Suite 200 35 Albuquerque, New Mexico 87109 36 (505) 340-3443 37 Dchanez@sclawnm.com 38 39	Page 2	1 INDEX 2 DEPONENT: TIMOTHY BOYD CHARLEY PAGE 3 EXAMINATION BY: 4 Mr. Checkett 5 5 Ms. Ben 110 6 Mr. Eaton 171 7 8 FURTHER EXAMINATION: 9 Mr. Checkett 111 10 ERRATA SHEET 201 11 REPORTER'S CERTIFICATE 202 12 13 EXHIBITS 14 NO. DESCRIPTION IDENTIFIED 15 Exhibit 1 Calendar for May 2019 25 16 Exhibit 2 Medical record of 5/28/19 44 17 Exhibit 3 Note from Navajo Fire 88 18 Department 19 Exhibit 4 Med Star Ambulance record 93 20 Exhibit 5 Record from Gallup Indian 94 21 Medical Center dated 5/28/19 22 Exhibit 6 Record from Gallup Indian 97 23 Medical Center dated 5/29/19 24 Exhibit 7 Report of Elvina Clark-Joe, 102 25 R.S., MPH 26 Exhibit 8 Questionnaire from Elvina 103 27 Clark-Joe, R.S., MPH 28 Exhibit 9 Deposition transcript of 104 29 Elvina Clark-Joe 30 Exhibit 10 Statement of Nyla Gonzalez 105 31 Exhibit 11 Statement of Neil Pablo 141 32 Exhibit 12 Statement of Ned Pablo 105 33 34	Page 3
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<p style="text-align: right;">Page 78</p> <p>1 A. It's -- 2 Q. So basically, just to -- go ahead. 3 A. It's just -- go ahead. I'm sorry. 4 Q. All right. So as far as you said she went back 5 with this nurse who poked her head out, you know, to the 6 side and went back, and one of the things they did was 7 take her temperature and weight, you're just saying, hey, 8 that's what they normally do, correct? 9 A. Yes -- ask her questions. 10 Q. Yeah. And so as far as you're -- again, whether 11 it was actually done or not is a different story -- you're 12 guessing that that's what they're doing with Nena when 13 she's with this nurse who poked her head out around the 14 corner, correct? 15 A. Correct. 16 Q. And you're -- you're -- you're guessing that 17 they're -- they're taking vital signs and taking her 18 weight and asking her questions, correct? 19 A. Correct. 20 Q. And so as far as what actually occurs that's 21 going on back there with the nurse -- the person you 22 believe to be the nurse, the white lady -- and Nena, you 23 don't have any knowledge of what was going on back there, 24 do you? 25 MS. BEN: Form.</p>	<p style="text-align: right;">Page 79</p> <p>1 A. No. 2 Q. And so basically all it is is you're just 3 sitting out there for approximately 15 minutes while the 4 nurse is going -- while the -- while Nena sees the nurse, 5 and you have no information as to what exactly is 6 occurring with the nurse. 7 Am I correct? 8 MS. BEN: Form. 9 A. Correct. 10 Q. So all you know is that whatever happened 11 between the nurse and Nena, you have no knowledge about 12 that, correct? 13 A. Correct. 14 Q. And that all you know, the next thing that 15 happened was Nena comes back out 15 minutes later after 16 seeing this person who you believe to be the nurse, this 17 white lady, correct? 18 A. Correct. 19 Q. And you have no -- again, you said you really 20 had no conversation with Nena after she got back with you 21 and before she went back with the third person who called 22 through the window. 23 Am I correct? 24 A. Correct. 25 MS. BEN: Form.</p>
<p style="text-align: right;">Page 80</p> <p>1 BY MR. CHECKETT: 2 Q. So it's fair to say that you didn't hear 3 anything going on with the nurse back in the -- the room 4 with Nena, correct? 5 MS. BEN: Form. 6 A. Correct. 7 Q. And so as far as whatever conversation that this 8 nurse had with Nena back in the room -- this white nurse 9 around the corner -- you don't know what that was? 10 MS. BEN: Form. 11 A. Just a routine checkup. 12 Q. Okay. But you don't know what they talked 13 about? 14 MS. BEN: Form. 15 A. No. 16 Q. And so you couldn't -- just to make sure, you 17 were not able to hear what the nurse was talking about 18 with Nena. 19 Am I correct? 20 MS. BEN: Form. 21 A. I could hear my wife talk. 22 Q. All right. So you just told me that you didn't 23 know what the conversation was between them. 24 Am I right? 25 A. I don't know what the nurse was --</p>	<p style="text-align: right;">Page 81</p> <p>1 MS. BEN: Form. 2 A. -- I couldn't hear the nurse, but I could hear 3 my wife talk. 4 Q. So you're at a point in the waiting room faced 5 away from where your wife was -- wherever she was with the 6 nurse -- and you -- could you hear the nurse? 7 MS. BEN: Form. 8 A. No. 9 Q. And so it's your testimony that the only voice 10 you could hear sitting out in the waiting room facing away 11 from where they were was your wife? 12 A. Yes. 13 Q. And what did you -- what did you -- go ahead. 14 A. Can you repeat the question? 15 Q. All right. What -- so basically without being 16 able to hear the nurse, you're able to hear your wife talk 17 to this nurse around the corner? 18 MS. BEN: Form. 19 A. Yes, I could hear my wife talking. 20 Q. And tell me everything you remember your wife 21 saying to this nurse while you're sitting out there for 15 22 minutes waiting for her to come back from this person who 23 you believe to be the nurse. 24 A. I just noticed that she was explaining her 25 symptoms, how she's feeling.</p>

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<p>1 Q. And what else?</p> <p>2 A. She just told her that -- how she felt,</p> <p>3 headache, a little feverish, and then it's just like a</p> <p>4 thing I could hear.</p> <p>5 Q. All right. So what I want you to do is tell me</p> <p>6 everything you remember, you know, details of what you</p> <p>7 heard your wife say while she's with this nurse -- person</p> <p>8 who you believe to be a nurse during that 15 minutes.</p> <p>9 What -- what did -- what did your wife say?</p> <p>10 MS. BEN: Form.</p> <p>11 A. I could hear her explaining her -- how she felt,</p> <p>12 headache. And I couldn't hear the nurse because I guess</p> <p>13 my wife was a little bit louder, but that was about it.</p> <p>14 It's more that -- how she felt and headache, fever.</p> <p>15 Q. Okay. And so --</p> <p>16 A. I guess that's when the nurse was --</p> <p>17 Q. And so -- go ahead.</p> <p>18 A. I guess that's when the nurse was asking her on</p> <p>19 why she was there.</p> <p>20 Q. And so in response to my question to everything</p> <p>21 you heard, was that all you heard from your wife while she</p> <p>22 was back with this person who you believe to be a nurse?</p> <p>23 MS. BEN: Form.</p> <p>24 A. Yes.</p> <p>25 Q. Did you hear anything else?</p>	<p>1 A. No.</p> <p>2 MS. BEN: Form.</p> <p>3 BY MR. CHECKETT:</p> <p>4 Q. So basically while your wife is back there 15</p> <p>5 minutes with the nurse, you -- you heard your wife say</p> <p>6 that she had a headache and she was feverish, and that's</p> <p>7 about all you heard?</p> <p>8 MS. BEN: Form.</p> <p>9 A. Oh, let's see. Yes.</p> <p>10 Q. All right. So if -- and again, Mr. Charley, I'm</p> <p>11 just trying to give you every chance to answer that</p> <p>12 question as far as what you specifically recall your wife</p> <p>13 said to the nurse.</p> <p>14 When she's back there with this person who you</p> <p>15 believe to be a nurse for 15 minutes, the only thing that</p> <p>16 you can recall as you sit here today is that you heard</p> <p>17 your wife say to this person who was a nurse that she had</p> <p>18 a headache and she was feverish; is that correct?</p> <p>19 MS. BEN: Form.</p> <p>20 A. Correct.</p> <p>21 Q. And so as far as -- you cannot recall -- outside</p> <p>22 of your wife -- hearing your wife say that she had a</p> <p>23 headache and was feverish, you cannot recall anything else</p> <p>24 that you heard your wife say during the entire time that</p> <p>25 your wife is back with the person who you believe to be</p>
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<p>1 any of, you know, your -- your wife or you heard anything. 2 But essentially here did your wife -- she 3 complained of headaches; is that right? 4 A. Yes. 5 Q. And you heard her tell that to the -- the nurse 6 who -- the white lady who poked her head around the 7 corner, correct? 8 A. Yes. 9 Q. And then you see temp here. It says 99.5. 10 You heard your wife say that she felt feverish 11 when she's talking with that nurse around the corner, the 12 white lady -- 13 A. Yes. 14 Q. -- correct? 15 A. Correct. 16 Q. And you didn't hear -- and -- and besides those 17 two things, you didn't hear anything else your wife talked 18 about with that nurse who poked her head out around the 19 corner and she was back with for 15 minutes. 20 Am I correct? 21 MS. BEN: Objection; form. 22 A. Correct. 23 Q. Then I'll show you -- this is still Exhibit 2 -- 24 a record from -- so this is the triage record that I'm 25 showing you on pages 3 and 4.</p>	<p>1 And then on page 5, your -- your wife 2 goes back -- you know, once she saw the person at the -- 3 at the window, she sees the person around the corner for 4 15 minutes, and then goes back into the ER, there was 5 another nurse by the name of Nurse Go -- and I'm pointing 6 to page 6 of 6 -- G-o. 7 You don't know or didn't hear anything that 8 happened back in the room once your wife was taken back 9 after the third person said Nena Charley, correct? 10 A. Correct. 11 Q. And then your wife then sees -- this is still 12 Exhibit 2, and I'm just showing the names on things. 13 Your wife ultimately then saw a doctor by the 14 name of Dr. Leach. As far as -- and he's a male -- as far 15 as -- Robert Leach. 16 As far as what your wife said to Dr. Leach, you 17 couldn't hear what was going on with them in the ER during 18 that first visit. 19 Am I correct? 20 A. It's not the ER -- it's the walk-in clinic -- 21 and no, I can't hear because it's -- 22 Q. Okay. 23 A. -- it's -- 24 MR. CHECKETT: Then what I'm going to do is show 25 you Exhibit 3.</p>
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<p>1 (Exhibit No. 3 marked.) 2 BY MR. CHECKETT: 3 Q. And this is the Navajo Fire Department, and it's 4 on page 3 of that exhibit, which is -- it's got a Bates 5 number 0005. 6 And it's -- it's -- basically what happened was 7 you and your wife leave the ER; after, you know, the 30 8 minutes she comes out, and you guys drive home, correct? 9 A. Yes. 10 Q. And then sometime the next morning do you go to 11 work? 12 You know, you leave for work before 9:00 to get 13 to work on -- let me show you Exhibit 1 again. 14 You go to work sometime around 9:00 a.m. on 15 Tuesday, the 28th, correct? 16 A. Correct. 17 Q. All right. And then going back to Exhibit 3, 18 which is the -- the Navajo Fire Department -- well, let me 19 back up. 20 Mr. Charley, do you know what time you got to 21 work on Tuesday, May 28th, 2019? 22 A. 9:00. 23 Q. Okay. And do you have any like punch cards that 24 you punch in with or are you just -- again, you just go 25 and you've worked there for 25 years and you go and get</p>	<p>1 there at 9:00? 2 A. It was ID scan. 3 Q. I see. Got it. Before you left for work on the 4 morning -- you know, so you'd been to the ER earlier in 5 the morning on the 28th. 6 Before you left for work later in the morning on 7 the 28th to get to work at 9:00, do you recall any 8 conversations with Nena how she was doing or was she 9 sleeping? 10 A. She was -- 11 COURT REPORTER: I'm sorry? 12 THE WITNESS: She was up. 13 COURT REPORTER: I couldn't hear you. Could you 14 start over, please? 15 THE WITNESS: She was up. 16 Q. And how -- how was she feeling? 17 MS. BEN: Form. 18 A. Oh, she was telling me that she -- oh, she -- I 19 remember she was saying -- she was sitting on the edge of 20 the bed telling me she had a cough. 21 Q. Was she able to -- you know, after getting back 22 from the ER earlier in the morning, you know, around 1:00 23 or 2:00 in the morning, was she able to sleep throughout 24 the night or she was up and down throughout the night? 25 A. She could sleep. She was smiling. She was --</p>

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<p style="text-align: right;">Page 98</p> <p>1 on May 29th about the circumstances of your wife's 2 passing?</p> <p>3 A. Yes, I did, but I don't remember her name.</p> <p>4 Q. Okay.</p> <p>5 A. I think --</p> <p>6 Q. Basically you gave her -- go ahead.</p> <p>7 A. Ms. Joe, I think, was her name. That's the one I talked to.</p> <p>8 Q. And say that name again?</p> <p>9 A. Ms. Joe.</p> <p>10 Q. Ms. Joe, okay. Oh, yeah, you spoke with Ms. Joe 11 later, okay, and I'll pull that one up, you know, next. 12 Do you recall telling -- do you recall telling 13 the history of what you were aware of to a nurse at GIMC 14 regarding your wife's condition and what you were aware 15 of?</p> <p>16 MS. BEN: Form.</p> <p>17 A. I don't remember.</p> <p>18 Q. During this conversation, it says -- and this is 19 the nurse's note. I'll just read it to you. 20 Monday she -- you were talking about Nena -- 21 Monday she felt okay. She got a headache and laid down. 22 Tuesday morning she was talking away. She 23 stated she is feeling hungry, and she felt like finally 24 going to the restroom, and he told her maybe because she</p>	<p style="text-align: right;">Page 99</p> <p>1 was not eating much before. 2 Tuesday morning she sat on the side of the bed 3 and started coughing and said her throat was itching. 4 My question to you is, on Tuesday morning, when 5 you went to work, that's when Nena was telling you that 6 she had some coughing; is that right?</p> <p>7 A. Yeah. When we came back from the hospital that morning she -- she had a cough.</p> <p>8 Q. All right. And then it says you went to work -- 9 you know, this is Tuesday morning -- and got a call around 10 10:00 a.m. from your son and told you that they are taking 11 his mother -- your son -- you know, Nile's mom -- in the 12 ambulance to the hospital. 13 He left work and came right away to meet them by 14 the road. 15 Do you remember -- again, that's what you told 16 us before, Nile had called you, and you went to meet the 17 ambulance, right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. In her note the nurse writes, she -- 20 patient -- was admitted to ER after being taken there by 21 the ambulance, and he was listening to her telling them 22 that she clean up the mouse dropping at work. 23 She kept telling them that she cannot breathe. 24 They kept getting blood from her, x-ray back and forth,</p>
<p style="text-align: right;">Page 100</p> <p>1 and she was still talking. 2 Do you remember telling a nurse at GIMC, you 3 know, on the day your wife passed that once she got -- the 4 ambulance took her to GIMC around 10:00, 10:30 on 5 May 28th, that you heard your wife telling the providers 6 about the mouse droppings? 7 MS. BEN: Objection; form.</p> <p>8 A. I don't remember.</p> <p>9 Q. Okay. This nurse goes through and kind of takes 10 you through the history of events. 11 She does not write that you -- you heard your 12 wife tell about the mouse droppings anytime before your 13 wife is admitted to the ER after being brought by the 14 ambulance. 15 Do you agree with that? 16 MS. BEN: Form.</p> <p>17 A. Can you repeat that question?</p> <p>18 Q. Okay. You're -- this nurse writes that you 19 heard -- the first time you heard your wife talk about 20 mouse droppings was at the second ER visit. 21 Did you tell someone during the second -- did 22 you tell this nurse during the second ER visit, that's 23 when you heard your wife talking about mouse droppings? 24 MS. BEN: Form. 25 A. Yes.</p>	<p style="text-align: right;">Page 101</p> <p>1 THE WITNESS: Can I take a break? 2 MS. BEN: Can we take a break, John? 3 MR. CHECKETT: Just let me finish two more 4 questions, then I'll move off this exhibit. Just two -- 5 two minutes?</p> <p>6 MS. BEN: Are you okay with that, Tim? 7 THE WITNESS: Yeah. 8 MS. BEN: Okay. Go ahead. 9 THE WITNESS: Yes.</p> <p>10 BY MR. CHECKETT:</p> <p>11 Q. All right. And then -- then basically what 12 happened is, after you -- after this nurse writes that you 13 heard your wife telling the staff when she's admitted to 14 the ER after being taken by the ambulance at about 10:00, 15 10:30 in the morning, that after you -- you know, they did 16 the -- the blood test and she's talking about mouse 17 droppings, that's when they took her to the Albuquerque 18 hospital; is that right?</p> <p>19 MS. BEN: Form.</p> <p>20 A. Yes.</p> <p>21 MR. CHECKETT: Why don't we go ahead and -- and 22 take our break. It's 11:52 here in Arizona and 12:52 your 23 time, so we'll take a ten-minute break. 24 (Recess was held from 12:52 p.m. until 25 1:13 p.m.)</p>

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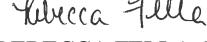
<p>Page 102</p> <p>1 MR. CHECKETT: It is 12:13 -- 1:13 New Mexico 2 time.</p> <p>3 BY MR. CHECKETT:</p> <p>4 Q. Mr. Charley, I just have a number of things I 5 need to finish up with you here.</p> <p>6 Let me share screen here with you, and --</p> <p>7 A. Excuse me.</p> <p>8 Q. -- can you --</p> <p>9 A. Excuse me. I would like to go back to that 10 first night. I would like to add on some words.</p> <p>11 Q. And -- and again, let me -- and I know we're on 12 the record and you're saying that -- let me go ahead -- I 13 will ask my questions. If your attorney needs to clarify, 14 then she can.</p> <p>15 MR. CHECKETT: What I want to do is, at this 16 time, as far as Exhibit Number -- let's see. It's -- 17 Exhibit Number 7 is Elvina Clark-Joe -- this is her 18 report.</p> <p>19 (Exhibit No. 7 marked.)</p> <p>20 BY MR. CHECKETT:</p> <p>21 Q. Did you -- did you speak with Elvina Clark-Joe 22 from the Department of Health and Human Services about 23 hantavirus and kind of -- well, do you remember speaking 24 with her?</p> <p>25 A. Yes.</p>	<p>Page 103</p> <p>1 Q. And then are you aware that she did a report?</p> <p>2 A. Yes.</p> <p>3 Q. And you're aware that Elvina Clark-Joe is an 4 individual who investigated the circumstances of your 5 wife's death from a sanitarian perspective, correct?</p> <p>6 A. Yes.</p> <p>7 MR. CHECKETT: And then she also -- Exhibit 8 Number 8 -- she also -- Elvina Clark-Joe, this is an 9 individual questionnaire that she filled out. (Exhibit No. 8 marked.)</p> <p>10 BY MR. CHECKETT:</p> <p>11 Q. She interviewed you and filled in some stuff 12 in -- in a questionnaire; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Did you -- and the questionnaire is 14 pages. 15 Is this something that -- this is -- is this 16 your handwriting on page 1?</p> <p>17 A. Yes.</p> <p>18 Q. Again, I just want to make sure. 19 Or is this Ms. Clark-Joe's handwriting as she's 20 taking down your answers?</p> <p>21 A. Oh, not -- not the questions, no, not that one.</p> <p>22 Q. Okay. So the checked boxes, that's not your 23 writing on page 2?</p> <p>24 A. No. That's when she was asking me questions.</p>
<p>Page 104</p> <p>1 Q. Okay. And then the name of person involved on 2 page 1, where it says Charley, first name Timothy, and the 3 address and everything, is this your writing in Section 2?</p> <p>4 A. No. My handwriting is different.</p> <p>5 Q. All right. So this questionnaire, based upon 6 your perspective, most likely Ms. Joe was -- Ms. Clark-Joe 7 was asking you questions and taking down -- writing things 8 down, correct?</p> <p>9 A. Yes.</p> <p>10 MR. CHECKETT: So then Exhibit Number 9 -- 11 again, I'm not going to -- at least at this point. (Exhibit No. 9 marked.)</p> <p>12 BY MR. CHECKETT:</p> <p>13 Q. Were you aware that Ms. Clark-Joe was deposed?</p> <p>14 A. Can you --</p> <p>15 MS. BEN: Form.</p> <p>16 BY MR. CHECKETT:</p> <p>17 Q. Okay. Let me ask a better question.</p> <p>18 Do you know if Ms. Clark-Joe had taken down -- 19 had given testimony under oath like you're doing today?</p> <p>20 Did you know that one way or the other?</p> <p>21 But don't tell me if you've discussed it with 22 your attorneys.</p> <p>23 A. I don't know.</p> <p>24 MR. CHECKETT: Okay. Exhibit 10.</p>	<p>Page 105</p> <p>1 (Exhibit No. 10 marked.)</p> <p>2 BY MR. CHECKETT:</p> <p>3 Q. Nyla Gonzalez -- Nyla is your sister-in-law, 4 right?</p> <p>5 A. Yes.</p> <p>6 Q. And were you aware she gave a transcribed 7 statement in this case? Were you aware one way or the 8 other?</p> <p>9 And don't tell me anything you talked about with 10 your attorney.</p> <p>11 MS. BEN: Form.</p> <p>12 A. I don't know.</p> <p>13 Q. And then were you aware -- and again, I don't 14 want to know anything you talked about with your 15 attorney -- that Neil -- Neil Pablo -- I believe your 16 brother-in-law -- had given a transcribed statement in 17 this case?</p> <p>18 MS. BEN: Form.</p> <p>19 A. I don't know.</p> <p>20 MR. CHECKETT: Exhibit 12. (Exhibit No. 12 marked.)</p> <p>21 BY MR. CHECKETT:</p> <p>22 Q. Were you aware -- Exhibit 12 is a statement by 23 Ned Pablo.</p> <p>24 Were you aware -- and don't tell me anything you</p>

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<p style="text-align: right;">Page 110</p> <p>1 MR. CHECKETT: Again, I don't have any further 2 questions.</p> <p>3 I guess, Melanie, if you want to do a 4 question-and-answer format, that's -- that's fine.</p> <p>5 EXAMINATION</p> <p>6 BY MS. BEN:</p> <p>7 Q. Okay. Mr. Charley, did you want to add anything 8 to your statement based on your visit to GIMC during that 9 first visit?</p> <p>10 A. Yes.</p> <p>11 MR. EATON: Objection to form.</p> <p>12 MR. CHECKETT: And foundation.</p> <p>13 Go ahead.</p> <p>14 BY MS. BEN:</p> <p>15 Q. Can you please tell me what that is?</p> <p>16 A. Yes. I could hear the -- this faded 17 conversation between the nurse and my wife that night, 18 because we were facing away from the room, back this way. 19 She was behind me. 20 There was only two persons -- two -- a couple 21 sitting in front of us, and I could kind of hear what 22 they're saying. 23 I remember her saying that -- she asked her what 24 kind of job she was doing, and she told her that -- she 25 told her she cleaned dirty, dusty shelves and mouse</p>	<p style="text-align: right;">Page 111</p> <p>1 droppings that night. 2 The -- the hospital wasn't busy. It was 3 quiet and just the two couples, and just the nurse and the 4 custodians were walking back and forth. 5 And that's what I remember that night.</p> <p>6 MS. BEN: Okay. Thank you, Mr. Charley. I'll 7 probably have some questions later.</p> <p>8 John, do you mind stopping the share screen?</p> <p>9 MR. CHECKETT: Oh, sure. Sorry about that.</p> <p>10 MS. BEN: I'll have more questions later. If 11 anyone wants to ask Mr. Charley some questions.</p> <p>12 MR. CHECKETT: You know what? Let me -- let me 13 follow up on that.</p> <p>14 FURTHER EXAMINATION</p> <p>15 BY MR. CHECKETT:</p> <p>16 Q. Mr. Charley, you know, we've been -- we are 17 almost three and a half hours into this deposition, and 18 your attorney just asked you for -- you to clarify 19 something that happened at the first ER visit just about 20 one minute ago; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. I'd asked -- going back to Exhibit 23 Number 6, now you're telling us -- after Ms. Ben's 24 questions here -- that you heard something from your wife 25 about her telling the nurse -- I assume it's the nurse --</p>
<p style="text-align: right;">Page 112</p> <p>1 in the first ER visit -- the one who poked her head around 2 the corner -- about mouse droppings. 3 Is that right? Is that what your testimony is 4 now?</p> <p>5 A. Yes.</p> <p>6 Q. All right. My question more directly to you is, 7 in your conversation on May 29th, 2019, with Nurse Smith, 8 isn't it true that you never mentioned that you heard any 9 reference to mouse droppings by your wife during the first 10 ER visit? Am I correct?</p> <p>11 MS. BEN: Objection; form.</p> <p>12 A. It was rodent droppings.</p> <p>13 COURT REPORTER: It was what? I'm sorry. Could 14 you say that again?</p> <p>15 THE WITNESS: Rodent droppings. Mice droppings, 16 yes.</p> <p>17 BY MR. CHECKETT:</p> <p>18 Q. Wait. So my question to you is, isn't it true 19 that you did not tell Nurse Smith on May 29th, 2019, that 20 you heard your wife talk about mouse droppings in the 21 first ER visit? Isn't that true?</p> <p>22 MS. BEN: Form.</p> <p>23 A. Me talking to the nurse?</p> <p>24 Q. Right. You -- in Exhibit -- let me share the 25 screen with you -- let me share the screen with you, and</p>	<p style="text-align: right;">Page 113</p> <p>1 I'll -- and I'll -- you'll probably get to understand a 2 little bit better what I'm trying to ask, because maybe 3 I'm doing it unartfully. 4 In Exhibit Number 6 there is a nurse by the name 5 of Corrina Smith who, on May 29th, 2019, had a 6 conversation with you. 7 Do you see that in Exhibit 6?</p> <p>8 A. (No response.)</p> <p>9 Q. It says, contact with family member: patient 10 spouse/Tim Charley. 11 Do you see what I'm referencing? 12 MS. BEN: John, may -- if I could just throw out 13 a suggestion. If you just reference it to first visit 14 versus second visit, that might help. 15 MR. CHECKETT: First and second, okay. Okay. 16 That's fine.</p> <p>17 BY MR. CHECKETT:</p> <p>18 Q. So Mr. Charley, what we're going to do is 19 reference the first ER visit as the one at, you know, 1:00 20 in the morning at GIMC, and the second ER visit as the 21 one, you know, where she's taken by ambulance at 22 10:00 a.m. to GIMC. 23 Do you -- do you understand that or are you 24 following me there? 25 MS. BEN: John, I'm trying -- I'm just trying to</p>

CHARLEY vs. THE UNITED STATES OF AMERICA, et al.
No. 1:22-CV-00033-JB/JFR

Timothy Boyd Charley
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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF NEW MEXICO 3 Case No. 1:22-CV-00033 JB/JFR 4 THE ESTATE OF NENA CHARLEY, 5 By and Through Personal Representative, 6 TIMOTHY CHARLEY, TIMOTHY 7 CHARLEY, as Parent and Next Friend of 8 NILE CHARLEY, and TIMOTHY CHARLEY, Individually, 9 Plaintiffs, 10 v. 11 THE UNITED STATES OF AMERICA, 12 ROBIN RANELL SALES, R.N., JOELLE 13 CATHERIN CERO GO, R.N., AB 14 STAFFING SOLUTIONS, LLC, a Foreign 15 Corporation, NEXT MEDICAL STAFFING, 16 a Foreign Corporation, and JOHN or JANE 17 DOE Corporation, 18 Defendants.</p> <p>19 REPORTER'S CERTIFICATE</p> <p>20 I, REBECCA FELLA, RPR, NM CCR 534, DO HEREBY CERTIFY 21 that on May 5, 2023, the Deposition of TIMOTHY BOYD 22 CHARLEY was taken before me at the request of, and sealed 23 original thereof retained by: 24 FOR DEFENDANTS ROBIN RANELL SALES, R.N. AND 25 NEXT MEDICAL STAFFING 26 JOHN J. CHECKETT 27 The Checkett Law Firm, PLLC 28 6829 North 12th Street 29 Phoenix, Arizona 85014</p> <p>30 I FURTHER CERTIFY that copies of this Certificate 31 have been mailed or delivered to all Counsel, and parties 32 to the proceedings not represented by counsel, appearing 33 at the taking of the deposition.</p>	<p>1 I FURTHER CERTIFY that examination of this transcript 2 and signature of the witness was requested by the witness 3 and all parties present. On May 8, 2023, a letter was 4 mailed or delivered to Melanie Ben regarding obtaining 5 signature of the witness, and corrections, if any, were 6 appended to the original and each copy of the Deposition. 7 I FURTHER CERTIFY that the recoverable cost of the 8 original and one copy of the Deposition, including 9 exhibits, to JOHN J. CHECKETT is \$ 10 I FURTHER CERTIFY that I did administer the oath to 11 the witness herein prior to the taking of this Deposition; 12 that I did thereafter report in stenographic shorthand the 13 questions and answers set forth herein, and the foregoing 14 is a true and correct transcript of the proceeding had 15 upon the taking of this Deposition to the best of my 16 ability. 17 I FURTHER CERTIFY that I am neither employed by nor 18 related to nor contracted with (unless excepted by the 19 rules) any of the parties or attorneys in this case, and 20 that I have no interest whatsoever in the final 21 disposition of this case in any court.</p> <p>22  23 REBECCA FELLA, RPR 24 New Mexico CCR 534 25 License expires 12/31/2023</p>